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| In re Application of | : | |
| David S. Miller | : | |
| Application No. 09/803,667 | : | ON PETITION |
| Filed: March 12, 2001 | : | |
| Attorney Docket No. 31921-169499 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 2005, to revive the above-identified application.


The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 18, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 19, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$510 extension of time submitted with the petition on June 1, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3623.


Wan Laymon
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for Patent Examination Policy